

1           A       I don't believe we would accept  
2 carriage on a sports tier.

3           Q       Okay. In your testimony you state  
4 that Comcast removal of CSN Mid-Atlantic from  
5 the Harrisburg channel diverted viewers to CSN  
6 Philadelphia; correct?

7           A       That's correct.

8           Q       How many Comcast subscribers had  
9 access to CSN Mid-Atlantic before it was  
10 dropped?

11          A       I can't tell you. I was not in  
12 affiliate relations at Comcast SportsNet. I  
13 can't tell you what the subscriber counts were  
14 at that point up there.

15          Q       What percentage of the subscribers  
16 on CSN Mid-Atlantic started watching CSN  
17 Philadelphia?

18          A       So I can't give you a percentage.  
19 I know that the ratings for Phillies baseball  
20 on CSN Philly were reasonably good in the  
21 Harrisburg area. So people were watching.  
22 When you do a [REDACTED] in one month people are

1 watching.

2 Q Do the ratings for CSN Philly go  
3 up after CSN Mid-Atlantic was dropped?

4 A I can't tell you, because I don't  
5 have the history of the ratings for CSN  
6 Philly.

7 Q Then what is the basis for your  
8 statement that when CSN Mid-Atlantic was  
9 dropped viewers went over to CSN Philadelphia?

10 A Well, the basis is, if you have  
11 baseball fans, which we know we do in that  
12 marketplace, because they followed Orioles  
13 baseball for a number of years, and Pirates  
14 baseball for a number of years, when you take  
15 those two stations and don't distribute them,  
16 then baseball fans are going to go to the only  
17 place they can get baseball, which would be  
18 CSN Philadelphia.

19 Q So all baseball fans are  
20 interchangeable? A fan of the Red Sox would  
21 just as soon watch a Yankee game?

22 A In my experience you have baseball

1 fans, you have fans of one team, you have fans  
2 of another team, then you have fans who love  
3 baseball. And if you take away two of the  
4 channels that were carrying baseball and it  
5 leaves you with one, you can be certain that  
6 baseball fans are going to migrate there; and  
7 you can be certain that fans of the other  
8 team, some of them, will watch the other  
9 station. It's the only place you can get  
10 baseball. So yes, to me it's common sense.

11 Q So if I'm carrying a music video  
12 channel, two music video channels; I've got an  
13 opera channel and a punk rock channel. If I  
14 drop the opera channel, those viewers are  
15 going to go, because they want to watch music  
16 videos, to watch the punk rock channel; is  
17 that what you are saying?

18 A No, it's not what --

19 MR. FREDERICK: Objection.

20 JUDGE SIPPEL: I'll sustain the  
21 objection.

22 BY MR. KIRK:

1           Q       Moving on to paragraph 13 you  
2   indicate that there were over the air  
3   broadcasts of the Orioles in Harrisburg,  
4   Roanoke, Lynchburg and the Tri-Cities area;  
5   correct?

6           A       I do. I do, correct.

7           Q       Are there television stations in  
8   the city of Harrisburg?

9           A       Yes, there are television stations  
10  in the city of Harrisburg.

11          Q       What television station within the  
12  city of Harrisburg carried the Orioles?

13          A       I don't remember the call letters.  
14  I can't tell you what the call letters were.

15          Q       Was there a station within the  
16  city of Harrisburg that carried the Orioles on  
17  television?

18          A       Yes, there was.

19          Q       But you don't remember the call  
20  letters?

21          A       I don't remember the exact call  
22  letters.

1           Q       What television station carried  
2   the Orioles in the city of Roanoke?

3           A       I know three stations, over the  
4   air stations, carried Orioles baseball in the  
5   city of Roanoke, three different ones. I'd be  
6   guessing at the call letters, just like I'd be  
7   guessing that Harrisburg is WHLY, I'd be  
8   guessing at that. But I do know that they were  
9   carried in Roanoke, and they were carried in  
10  Harrisburg.

11          Q       Okay. In your testimony you  
12  indicate that DIRECTV and EchoStar, two  
13  satellite providers, both carry MASN in the  
14  excluded markets; correct?

15          A       They do.

16          Q       In order to carry MASN in  
17  Baltimore and Washington, D.C., the satellite  
18  providers were required to carry MASN  
19  throughout its territory; correct?

20          A       I believe that, yes.

21          Q       And once MASN was launched on the  
22  satellite systems, the entire MASN territory

1 was covered by their satellite footprint;  
2 correct?

3 A Yes, I believe this whole  
4 territory is covered by DIRECTV and Dish.

5 JUDGE SIPPEL: Which whole  
6 territory? What number?

7 WITNESS: I'm sorry, 239, it's  
8 our entire footprint, and DIRECTV and Dish,  
9 two MVPDs, carry MASN, through that entire  
10 colored area, Judge.

11 JUDGE SIPPEL: And does that  
12 include the North Carolina, too?

13 WITNESS: It does. We are  
14 distributed in North Carolina by DIRECTV,  
15 Dish, and a number of other MVPDs.

16 JUDGE SIPPEL: DIRECTV, Dish --

17 WITNESS: Yes, DIRECTV, Dish,  
18 Charter, Mediacom, carries us in North  
19 Carolina, and a few others.

20 JUDGE SIPPEL: What is that  
21 exhibit number? Oh, 239, okay. Go ahead.

22 BY MR. KIRK:

1           Q       And once MASN is loaded on the  
2     satellite for DIRECTV, that is beamed down to  
3     the entire territory; correct?

4           A       Yes, it is.

5           Q       It doesn't have to be loaded  
6     separately for each different DMA within the  
7     MASN territory?

8           A       I really don't understand your  
9     question. I mean if you are asking me does  
10    DIRECTV have to go to this entire area, the  
11    answer is no, there are times when DIRECTV  
12    blocks out our programming because we are not  
13    allowed to carry programming to some of these  
14    areas, like a Ravens football game, for  
15    instance, can't air in North Carolina. So we  
16    ask DIRECTV and Dish to block it out.

17                   JUDGE SIPPEL:   Was that because  
18    of -- why can't they? Because of NFL  
19    regulations?

20                   WITNESS:   Judge, a lot of the  
21    leagues have defining geographic territories.  
22    Major league baseball defined this whole area

1 as Orioles and Nationals territory. We were  
2 talking about the Redskins before. The  
3 Redskins territory goes down here in Virginia  
4 and DC. The Ravens, their home territory is  
5 Harrisburg, to carry Ravens programming. They  
6 are in Baltimore, Salisbury, Washington, and  
7 up north here in Harrisburg; that's the way it  
8 goes. So each different league requires  
9 different geographic boundaries.

10 JUDGE SIPPEL: Okay.

11 BY MR. KIRK:

12 Q And you previously testified a few  
13 minutes ago that in order to carry MASN in  
14 Baltimore and Washington, DIRECTV and Dish  
15 were required to carry it throughout the MASN  
16 territory; correct?

17 A I know you asked me about the  
18 word, required. I didn't do that deal. I  
19 don't know if we said -- but they did, and  
20 they wanted to carry us, and they are happy to  
21 carry us down there. They are really happy to  
22 carry us in North Carolina and these other



1 areas. So I can't tell you if we required --

2 I can't use that word, sorry.

3 Q Putting aside the satellite  
4 providers, what other MVPDs carry MASN in the  
5 Tri-Cities area?

6 A We have two MVPDs that carry us in  
7 Tri-Cities, DIRECTV and Dish.

8 Q Any other MVPDs?

9 A No, we don't.

10 Q Are there other MVPDs that serve  
11 the Tri-Cities?

12 A There are.

13 Q Does Suddenlink serve the Tri-  
14 Cities DMA?

15 A I believe it does.

16 Q Does it carry MASN?

17 A It does not.

18 Q Does Rapid Cable serve the Tri-  
19 Cities DMA?

20 A I don't know if Rapid serves that  
21 DMA. I know they are in that area, and I  
22 couldn't tell you whether it was Roanoke or

1     Lynchburg or Tri-Cities that it serves. I  
2     know Rapid is in that area. Rapid does not  
3     carry MASN.

4             Q       Okay. Does Scott Telecom serve  
5     the Tri-Cities DMA?

6             A       Again, I can't list for you the  
7     ones that don't carry us. I can list for you  
8     the ones that do carry us. If you want to  
9     tell me that it's in there, then I'll say no,  
10    it's not carried on there.

11            Q       Does Gearheart Comm serve the Tri-  
12    Cities DMA?

13            A       If I recall, it does.

14            Q       Does it carry MASN?

15            A       It does not.

16            Q       Does Omega Cable serve the Tri-  
17    Cities DMA?

18            A       I believe it does. I recall that  
19    I think it does.

20            Q       Okay, does it carry MASN?

21            A       It does not.

22            Q       Okay. Does Jack McLanahan Cable

1 serve the Tri-Cities DMA?

2 A I believe it does.

3 Q Does it carry MASN?

4 A It does not.

5 Q Does Mountain Cable serve the Tri-  
6 Cities DMA?

7 A I believe it does.

8 Q And does it carry MASN?

9 A It does not.

10 Q Does Breaks Cable serve the Tri-  
11 Cities DMA?

12 A That one is foreign to me. I  
13 can't remember the name. If it's in the Tri-  
14 Cities DMA, it does not carry MASN.

15 Q Okay. Does Cable Plus serve the  
16 Tri-Cities DMA?

17 A I don't remember that name either.

18 Q Does it carry MASN?

19 A It does not.

20 Q Does K&V Cable serve the Tri-  
21 Cities DMA?

22 A You know I wish I could tell you.

1 These are all small mom and pops, most of  
2 them, and I just can't recall the names and  
3 whether they refer to that specific DMA. If  
4 you show me a list and say these are the DMAs,  
5 these are the systems, I will be able to help  
6 you.

7 Q Is it safe to say that other than  
8 the two nationwide satellite providers, every  
9 other MVPD does not carry MASN in the Tri-  
10 Cities DMA?

11 A I told you that from the outset,  
12 and you went through that whole list? I said,  
13 those are the only two in Tri-Cities that  
14 carry MASN.

15 JUDGE SIPPEL: Well, you can  
16 answer his question. He's asked a question.  
17 You can answer his question, please.

18 WITNESS: Go ahead and ask your  
19 question.

20 BY MR. KIRK:

21 Q Other than the nationwide  
22 satellite providers, has every other MVPD

1 declined to carry MASN in the Tri-Cities DMA?

2 A MASN is not carried by any other  
3 MVPDs but DIRECTV and Dish in the Tri-Cities  
4 DMA.

5 Q Okay. Again, putting aside the  
6 nationwide satellite providers, what other  
7 MVPDs carry MASN in the Roanoke and Lynchburg  
8 DMA?

9 A I believe there are five MVPDs  
10 including Dish and DIRECT that carry us in  
11 that area.

12 Q Does Suddenlink serve the Roanoke-  
13 Lynchburg DMA?

14 A I don't think so anymore. I think  
15 Suddenlink was bought by Jet. I can't be  
16 certain of that. At some point it did.

17 Q And they didn't carry MASN?

18 A No. No, it does not, no.

19 Q And you mentioned Jet. Does  
20 JetBroadband serve the Roanoke-Lynchburg area?

21 A Jet does serve that area. We've  
22 had many discussions with them, and we are

1 hoping that they carry us very soon.

2 Q And do they carry MASN today?

3 A They do not carry us today.

4 Q Does Rapid Cable serve the

5 Roanoke-Lynchburg DMA?

6 A I believe it does.

7 Q And does it carry MASN?

8 A It does not.

9 Q Does Chatmoss Cablevision serve --

10 A Yes.

11 Q Does it carry MASN?

12 A It does not.

13 Q Does Citizens Cablevision serve

14 Roanoke-Lynchburg?

15 A It does.

16 Q Does it carry MASN?

17 A It does not.

18 Q Does Nelson County Cablevision

19 serve Roanoke-Lynchburg?

20 A It does.

21 Q Does it carry MASN?

22 A It does not.

1           Q       Does Omega Cable serve the  
2   Roanoke-Lynchburg DMA?

3           A       I can't recall, but if it does, it  
4   does not carry MASN.

5           Q       Does Clearview Cable serve the  
6   Roanoke-Lynchburg DMA?

7           A       The reason I am hesitating is  
8   because we have a contract with a company  
9   named Clearview. So I know part of Clearview  
10   is up north in the Harrisburg area. I can't  
11   recall if it's down in that Roanoke area. But  
12   we do have a deal with a company called  
13   Clearview.

14          Q       Is it one of the five that you  
15   indicated were carrying MASN in Roanoke-  
16   Lynchburg?

17          A       I don't remember.

18          Q       Does Rural Retreat Cable serve  
19   Roanoke-Lynchburg DMA?

20          A       I can't recall. But if it does it  
21   doesn't carry MASN.

22          Q       Does Media One Cable serve the

1 Roanoke-Lynchburg DMA?

2 A I can't recall that one either,  
3 but if it does it doesn't carry MASN.

4 Q Okay. Let's move on to the  
5 Harrisburg DMA. Putting aside the nationwide  
6 satellite providers, what other MVPDs carry  
7 MASN in the Harrisburg DMA?

8 A I believe there are six MVPDs that  
9 carry MASN, and six MVPDs that don't carry  
10 MASN in the Harrisburg DMA.

11 Q Six including the satellites?

12 A Including DIRECTV and Dish. I'm  
13 sorry, you are asking me about without the  
14 satellite providers. But in my memorization  
15 of numbers, it's six and six.

16 Q So half carry it and half do not.

17 A Well, the same number of operators  
18 carry us and the same number of operators do  
19 not. Some of this is double counting, because  
20 Comcast does carry us in a small portion of  
21 the Harrisburg DMA, but they also do not carry  
22 us in some small portion of the DMA.



1           Q       You previously testified that you  
2       knew Comcast had a system that served the city  
3       of Harrisburg; correct?

4           A       Yes.

5           Q       And is it your testimony that the  
6       Orioles franchise has long seen the Harrisburg  
7       area as an important source of fan for the  
8       sport?

9           A       Very important.

10          Q       Since when?

11          A       Since when did I know, or since  
12       when have the Orioles been important to  
13       Harrisburg?

14          Q       The latter. Since when have the  
15       Orioles viewed Harrisburg as important?

16          A       In talking to the people who I  
17       work with at the ball club, and were rights  
18       holders at the ball club, the ball club  
19       officials tell me that Harrisburg has been,  
20       is, will be, and always was very important to  
21       the success of the Baltimore Orioles.

22          Q       How many season ticket holders are

1 from Harrisburg?

2 A Sorry, I can't answer that  
3 question. I have no idea. The ball club  
4 would know that.

5 Q Do you know how many tickets are  
6 mailed out to Harrisburg addresses?

7 A Sir, all I can tell you is my  
8 conversations with the team officials telling  
9 me Harrisburg is extremely important to them.  
10 They try to strike radio deals, and they have  
11 over the air clearances there for a number of  
12 years. So it is important to them.

13 Q And while you were previously  
14 employed by CNS Mid-Atlantic, the network has  
15 the rights to the Orioles; correct?

16 A The network had the rights to the  
17 Orioles, yes, when I was vice president at  
18 Comcast SportsNet.

19 Q And according to the channel line-  
20 up card it was being carried on the sports  
21 tier, correct?

22 A According to the channel line-up

1 card you gave me, there are two listings for  
2 Comcast SportsNet. And one of them you  
3 pointed out was dark black and that refers to  
4 the sports team. The one on Channel 35 looks  
5 to me like an expanded basic channel. But I'm  
6 not here to argue --

7 JUDGE SIPPET: Just answer his  
8 question.

9 WITNESS: I'm sorry, did I --

10 BY MR. KIRK:

11 Q According to that channel line-up  
12 card, is Comcast SportsNet Mid-Atlantic  
13 carried on a sports tier?

14 A It is carried on a sports tier  
15 according to this line-up.

16 Q Okay. Did the Orioles ever  
17 complain about being carried on a sports tier  
18 in Harrisburg?

19 A In my dealings with the Orioles,  
20 they never complained. I don't think they  
21 ever knew. I work for the cable company. I  
22 work for Comcast SportsNet, and I didn't know.

1 I don't know how they would know, because I  
2 was their liaison to the cable company.

3 Q You just indicated it was a very  
4 important area to them, yet you don't think  
5 they would know whether they were on a sports  
6 tier or expanded basic?

7 A No, I don't think they would know,  
8 because the Orioles would have never looked at  
9 the Comcast SportsNet ratings up there that  
10 would have shown that they were on a sports  
11 tier, because the ratings were so strong. It  
12 wouldn't have stuck out to the Orioles. It  
13 never stuck out to me, and I ran the place.

14 Q We'll get to ratings in a minute.  
15 Did you consult with the Orioles --

16 JUDGE SIPPEL: Let me ask a  
17 question, I'm sorry. Isn't there a difference  
18 in the price you get, that you pay -- or there  
19 is a difference certainly in the coverage if  
20 you are on a sports tier versus an expanded  
21 basic; isn't that correct?

22 WITNESS: If you are on a sports

1 tier you are only available to subscribers  
2 that subscribe to that tier.

3 JUDGE SIPPEL: And is this what  
4 I'm hearing here, that you didn't know which  
5 way it was going?

6 WITNESS: Sir, in my time there,  
7 I had no idea anywhere on this map that  
8 Comcast SportsNet was not on expanded basic.  
9 I never heard that we were on a sports tier  
10 until I saw some of these documents.

11 And based on this, it says Comcast  
12 SportsNet on what I would call an expanded  
13 basic tier. So here is one Comcast SportsNet  
14 there and there is one Comcast SportsNet  
15 there. Number 35. That says Comcast  
16 SportsNet.

17 JUDGE SIPPEL: You are talking  
18 about the channel line-ups?

19 WITNESS: I see two Comcast  
20 SportsNets.

21 JUDGE SIPPEL: All right. Do you  
22 see what my quandary is, though? I mean if

1 you have got -- it seems to me that anybody  
2 associated with paying for the service is  
3 going to know whether they were on the upper  
4 tier or the expanded basic because of just  
5 what you say, it all depends on the number of  
6 subscribers. It's quite a big deal, I've  
7 heard.

8 WITNESS: And it's amazing that  
9 the ratings were so good in Harrisburg that  
10 not only the cable channel, Comcast SportsNet,  
11 but also for the over-the-air stations, okay.  
12 The over-the-air stations and cable get rated  
13 the same. So they weren't loading up their  
14 ratings in Harrisburg.

15 JUDGE SIPPEL: Well, what do you  
16 ascribe -- to what do you ascribe -- that  
17 phenomenon from happening, that you are  
18 getting these higher ratings but yet it's  
19 pitched to a subscriber-only tier?

20 WITNESS: It doesn't make any  
21 sense to me. I don't see how Comcast  
22 SportsNet Mid-Atlantic and the Orioles

1 television network which was on over-the-air  
2 TV, I don't see how those ratings could have  
3 been so high and not having full penetration  
4 on this system.

5 Now the ratings would have been  
6 through the roof if they were on expanded  
7 basic based on what they are saying, that they  
8 were on a sports tier.

9 JUDGE SIPPEL: Well, you are  
10 assuming that. When you say ratings, what  
11 ratings are you talking about?

12 WITNESS: The only one that we  
13 all use is Nielsen.

14 JUDGE SIPPEL: All right, for the  
15 record. Okay, Mr. Kirk.

16 MR. KIRK: Okay.

17 BY MR. KIRK:

18 Q Did you previously consult for the  
19 Orioles?

20 A I consulted for Peter Angelos.

21 Q And in that consulting capacity  
22 did he ever mention Harrisburg?

1 A Not that I can recall.

2 Q Okay, now getting back to these  
3 ratings that you keep referring to, what is a  
4 Nielsen rating?

5 A Well, a Nielsen rating is really  
6 specific to a DMA, and it measures the amount  
7 of people who were watching a television show  
8 versus the population in that DMA.

9 Q Do the Nielsen ratings measure  
10 based on the number of households in the DMA  
11 or the number of households to which the  
12 programming is available?

13 A I believe the Nielsen ratings  
14 represent the amount of households that have  
15 TV sets in that area. Ratings are not  
16 specific to one cable operator or one tier or  
17 anything like that.

18 Q You reference a July, 2004 Nielsen  
19 rating; correct?

20 A That's correct.

21 Q Are you indicating that that July  
22 2004 rating represents an average rating?



1           A       What I'm indicating is that that  
2       was the rating in July of 2004.

3           Q       Do ratings vary depending upon the  
4       teams the Orioles would be playing?

5           A       Ratings vary depending on a lot of  
6       different things, teams, teams can be one,  
7       performance could be the other, whether  
8       American Idol is on, whether it's raining out,  
9       there are a lot of different reasons why  
10      ratings vary.

11          Q       What is a high Nielsen rating?

12          A       What DMA?

13          Q       Why does it matter?

14          A       Well, which team are you talking  
15      about? Which DMA are you talking about? I  
16      can't just -- a high rating would be a 50  
17      rating for a Super Bowl.

18          Q       What is a high Nielsen rating for  
19      an RSN.

20          A       In what DMA? If you want me to  
21      help you you have to tell me where.

22          Q       Okay, in the Harrisburg DMA.